29 **S.B. CIVIL MISC. APPEAL NO.1822/2006.**
(Smt.Gajrai Devi & ors. Vs. Poonam Chand & others)

DATED : 15th March 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Babu Lal Rao, for the appellants.

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BY THE COURT:

For quantification of compensation to be awarded to the parents of about 17 years old vehicular accident victim Prakash Chandra, the Tribunal has taken note of the assertions of the claimants about the deceased studying in 9th Standard and contributing in agriculture, thereby earning Rs.2,000/- per month; but in view of the age of the deceased and in the overall circumstances of the case has taken his notional income at Rs.15,000/- per annum and deducting one-third wherefrom on his personal expenditure and with application of multiplier of 16, has assessed pecuniary loss at Rs.1,60,000/-. The Tribunal has further allowed Rs.10,000/- towards non-pecuniary loss and Rs.5,000/- towards funeral expenses and property damage and has thereby assessed total loss for the claimants at Rs.1,75,000/- and has made the award in this amount together with interest @ 9% per annum from the date of filing of the claim application. The award is sought to be challenged in this appeal by the claimants.

Learned counsel for the appellants has strenuously contended that the Tribunal has been in error in putting an estimate on the income of the deceased on lower side and the ultimate amount awarded by the Tribunal remains too low and insufficient; and that apportionment of the compensation amount has not been proper where a meagre amount has been allowed to the father of the deceased.

Having heard learned counsel for the appellants and having examined the award impugned in its totality, this Court is of opinion that the amount towards compensation as awarded by the Tribunal cannot be said to be too low or insufficient.

The deceased was an unmarried person in 17 years of age. In the fact situation of this case, the Tribunal cannot be said to have erred in taking his notional income at Rs.15,000/- per annum. Thereafter, the Tribunal has erred but only in favour of the claimants and not against them. The application of multiplier of 16 does not appear to be correct in view of the age of the parents of the deceased in the range of 41-42 years. Then, the deceased being an unmarried person, the likelihood of a larger part of his income getting diverted to his own family after marriage could not have been ignored and hence entire of two-third of the estimated income of the deceased could not have been taken towards loss of contribution for the parents. Hence, the amount as awarded by the Tribunal in total in the sum of Rs.1,75,000/- in the circumstances of this case cannot

be said to be too low or inadequate. Moreover, the Tribunal has allowed interest @ 9% per annum from the date of filing of the claim application. There appears no scope for any enhancement in this case.

In the fact situation of this case, there appears no reason to consider the question of apportionment of award amount between the two claimants, the co-appellants herein.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

Mohan/